

In The United States District Court For The Middle
District of Pennsylvania

FILED
HARRISBURG, PA

APR 14 2005

James H. Williams
(Plaintiffs)

vs

Richard L. Spaide
(Defendants)

MARY E. D'ANDREA CLERK
Per MEJ Deputy Clerk

Civil No 1:04-01-0280

Judge Kene

Plaintiffs Concise Reply Brief To Responding
Party's Opposing Brief

Pursuant to local Rule of Court 7.7 allows the moving party to file a reply brief to the responding party's opposing brief within ten (10) days of the filing of the opposing brief.

However, a reply brief is not mandatory and the failure to file one will not result in detrimental action. Nevertheless Plaintiff's feels reply brief is necessary for correction.

1. Friday, April 8, 2005 Plaintiff's rec'd Defendant's Brief to Plaintiff's motion for reconsideration of the Court's Grant of Summary judgment to Defendant Spaide.

2. As an officer of the Court Defendant's Attorney's has made a false statement which she knows or should have known not to be true during an official proceeding with her brief.

1. Question Presented.

A) Whether Defendant's Attorney's made a knowing false statement in brief dated April 6, 2005

Issue.

A) Defendant's Attorney's Linda S. Lloyd Senior Deputy - Attorney General made a knowingly false statement to support her claim.

Argument.

Plaintiff's alleged Defendant's Attorney's made a knowing

false statement within her brief dated April 6, 2005, in an attempted to support her claims and discredit Plaintiff's claims in violation of Professional code of conduct and Rules of Federal Court procedures

In Defendant's Attorney's brief dated April 6, 2005, she argued, Plaintiff's can not assume that the Court did not consider his arguments. "The decision of the Court does discuss his filing of a complaint with the state police"

(Defendant's brief dated April 6, 2005, page * 4)

No where within the Court "Memorandum and order" dated February 28, 2005, Discussion on exhaustion claims page * 2 thru * 5 does it mention or concluded even acknowledge Plaintiff's filed Complaint with the state police.

(See Memorandum and order dated Feb 28, 05 pg# 2-5)

Defendant's Attorney's makes no reference to where such statements was made by this Court. Furthermore, Defendant's Attorney's allege there is no evidence that Plaintiff's followed through with that Complaint to its completion? has no merit or support for the following reasons.

Plaintiff's presented documentation from District Attorney's office in Schuylkill County (Pottsville) and Pa. State Police both acknowledge receiving complaints from Plaintiff's concerning ~~the~~ ~~an~~ S.C.E. Mahanoy incident which both Dept forwarded Complaint to Dept of Correction office of Professional Responsibility the office that handle such Complaints.

(See brief in Support of Motion for Reconsideration pg# 6-7)

Plaintiff's also attached documentation from the office of Professional Responsibility confirming that Complaint was rec'd and that S.C.E. Mahanoy conducted such investigation from Feb 8, 99 incident, against Defendant Spaide.

(See brief in Support of motion for Reconsideration pg# 6-7)

Yet, this Court and Defendant's Attorney's believes state Police, District Attorney's office and Dept of Correction office of Professional Responsibility is lying about Plaintiff's filing Complaint against Defendant's Spaide, solely because Defendant Spaide said so, in a sworn declaration in Support of his Motion for Summary judgment?

Plaintiff's have completed his exhaustion claims, he submitted documentation from "OPR" office stating they will not distribute a copy of the investigation against Defendant's Spaide, see Mahanoy for a copy.

Then we have S.C.E. Mahanoy staff stating no such Complaint was filed. therefore, no investigation was made.

Yet this Court don't believe Defendant Spaide have committed perjury or Dept of Correction prevented Plaintiffs from exhausting state Remedies.

Now Defendant's Attorney is trying to cover up Defendant Spaide action so that she can win her case.

Do this Court Really believe i.e.d. Mahoney staff will turn over their investigation to prove Defendant Spaide committed perjury? Plaintiffs submitted enough evidence to show somebody is lying about the existence of Criminal Complaint being filed.

Defendant signed a sworn declaration stating no complaint was filed against him for alleged Feb 8.99 Assault.

now his Attorney acknowledge a complaint being filed with state Police but argues there's no evidence that Plaintiffs followed through with that complaint to its completion.

(See Defendant's brief dated April 6. 2005. page *4)

The main argument was Plaintiffs failed to exhaust on the grounds no Criminal Complaint was filed therefore not exhausting administrative Remedies.

For unknown reason Defendant never addressed whether D.C. have established other procedures that an inmate can file Criminal Complaints outside of the Grievance system to exhaust administrative Remedies, as the law requires.

Conclusion

wherefore, for all above reason this Court should order Defendant's Attorneys to file new Brief in opposition to Plaintiffs motion for Reconsideration and order Defendant's Attorney to address each issue raised as law requires.

Respectfully Submitted.

James Williams pro se.
James H. Williams AY-8692
175 Progress Drive
Waynesburg, Pa. 15370

Date April 10. 2005

In The United States District Court For The
Middle District of Pennsylvania

James Williams
(Plaintiffs)

VS

Richard L. Spaide
(Defendant)

Civil No[#] 1:cv-01-0280

Judge Kane.

Certificate of Service

I, James Williams, prose, hereby certify that on April 11, 2005, I served a true and correct copy of "Plaintiffs Concise Reply Brief To Responding Party's opposing brief" by causing it to be deposited in the United States mail first class postage prepaid to the following.

Kind S Lloyd (D.A.G.)
Office of Attorney General
15th Floor, Strawberry Square
Harrisburg, Pa. 17120

Respectfully Submitted,
James Williams prose.
James H. Williams
AT 8692 (S.C. & Greene)
175 Progress Drive
Waynesburg, Pa. 15370

Date April 11, 2005

To: office of the clerk
215. District Court House
228 Walnut St. P.O. Box 983
Harrisburg, Pa. 17108

James Williams
AY8692 (S.C. & Greene)
175 Progress Dr
Waynesburg, Pa. 15370

April 11, 2005

RE: Williams vs Spaide
Civil # 1:01-cv-0280

Dear Clerk,

Enclose please find one (1) original and two (2) copies of "Plaintiff's Concise Reply Brief to Responding Party's Opposing brief." for filing with your office. With attached Certificate of Service.

Truly yours
James Williams

Williams AY8692
175 Progress Drive
Waynesburg, PA., 15370



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